

REMARKS

Claims 1-36 are pending in this application. Claims 1-36 have been rejected. Claims 22-26 have been withdrawn from consideration in this application. Claims 1, 8, 15, 27, 31-33 have been amended. No new matter has been added by this amendment. Reconsideration is respectfully requested in light of the following remarks and amendments.

Rejections under 35 U.S.C. §112

Claims 1-21 and 27-36 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Particularly it is suggested that claims 1, 8, 15, 27, 31-33 lack antecedent basis for the recitation of the limitation of "said vapor path".

Claims 1, 8, 15, 27, 31-33 have been amended to clarify the antecedent basis for the term "vapor path".

Rejections under 35 U.S.C. §102 – Bender et al.

Claims 1-2, 4-5, 8-9, 11-12, 15-16, 18-19, 27-29, and 31-35 are rejected under 35 U.S.C. §102(b) as being anticipated by Bender et al. (US Patent No. 3,474,543). Applicants respectfully traverse this rejection.

It is first respectfully pointed out that independent claims 1, 8, 15, 31, and 33 have been amended to recite a venting media oriented in said vapor path and attached to the sealing perimeter at the top of the cap forming a barrier isolating the container from the external atmosphere. Bender et al.'s invention consists of a container having a gas impermeable plug securely located at the mouth of the container by means of a closure cap having a central opening in the cap, see column 2, lines 9-13. Bender et al. do not teach or suggest a barrier present at the top or outermost surface of the vapor passage. Bender et al. require the barrier to be present between the upper end of the container and the underside of the closure cap, column 3, lines 34-37. Bender et al. do not teach or suggest all of the limitations of the present claims. Further, one of skill would not be motivated to position the barrier further away from the container contents in light any of Bender et al.'s teachings, thereby mooting this rejection.

As stated *supra*, Bender et al. fail to teach all of the limitations of the claims. Jones (US Patent No. 5,522,155) fails to provide Bender et al. with the requisite teaching or suggestions to make the present claimed invention obvious alone or in combination with any other proffered art.

Reconsideration and withdrawal of this rejection is requested in view of the above remarks and claim amendments herewith.

Rejections under 35 U.S.C. §102 - Jones

Claims 15-21, 31, and 33-36 are rejected under 35 U.S.C. §102(b) as being anticipated by Jones (US Patent No. 5,522,155). Applicants respectfully traverse this rejection.

It is again pointed out that the claims have been amended to recite a venting media oriented in said vapor path and attached to the sealing perimeter at the top of the cap forming a barrier isolating the container from the external atmosphere, thereby mooting this rejection. Thus, Jones teaches a venting media 30 which extends across opening 18 of the stopper such that it seats in the throat of a container at the bottom most edge of the stopper, see column 2, lines 46-48, column 4, lines 16-20, and Figures 1-13.

Thus, Jones cannot be held to anticipate the claims of this application as Jones does not teach all of the elements of the claims of this application.

Reconsideration and withdrawal of this rejection is requested in view of the above remarks and claim amendments herewith.

Rejections under 35 U.S.C. §103

A. *Claims 3, 10, 17, and 30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bender et al. (US Patent No. 3,474,543).*

Bender et al. do not teach or suggest a barrier present at the top or outermost surface of the vapor passage. Bender et al. require the barrier to be present between the upper end of the container and the underside of the closure cap, column 3, lines 34-37. Bender et al. do not teach or suggest all of the limitations of the present claims. Further, one of skill would not be motivated to position the barrier further away from the container contents in light of any of Bender et al.'s teachings, thereby mooting this §103(a) rejection.

Reconsideration and withdrawal of this rejection is requested in view of the above remarks and claim amendments herewith.

B. Claims 6-7, 13-14, 20-21, and 36 are yet further rejected under 35 U.S.C. §103(a) as being unpatentable over Bender (US Patent No. 3,474,543) in view of Jones (US Patent No. 5,522,155).

Assuming *arguendo* that Bender et al. was combined with Jones, the present invention would not be taught or suggested. Neither of the references teaches a venting media oriented in said vapor path and attached to the sealing perimeter at the top of the cap forming a barrier isolating the container from the external atmosphere.

Jones teaches a venting media 30 which extends across opening 18 of the stopper such that it seats in the throat of a container at the bottom most edge of the stopper, see column 2, line 46-48, column 4, lines 16-20, and Figures 1-13.

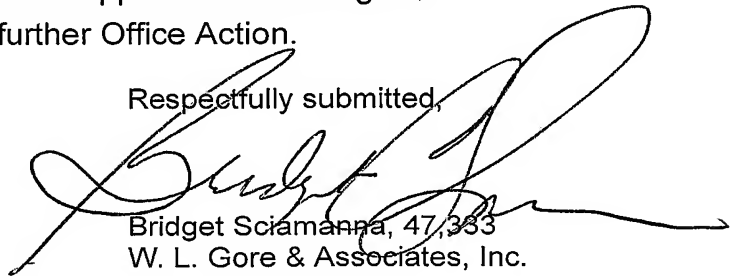
Similarly, Jones would fail to provide the requisite teachings when combined with Bender et al. to make a venting media oriented in said vapor path and attached to the sealing perimeter at the top of the cap forming a barrier isolating the container from the external atmosphere such as required by the present invention.

Reconsideration and withdrawal of this rejection is requested in view of the above remarks and claim amendments herewith.

Conclusion

For the foregoing reasons, the present invention as defined by claims 1-36 is neither taught nor suggested by any of the references of record. Accordingly, Applicants respectfully submit that these claims are now in form for allowance. If further questions remain, Applicants request that the Examiner telephone Applicants' undersigned representative before issuing a further Office Action.

Respectfully submitted,



Bridget Sciamanna, 47,353
W. L. Gore & Associates, Inc.
551 Paper Mill Road
P.O. Box 9206
Newark, DE 19714-9206
(302) 738-4880

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